REMARKS

Claims 95-104 and 113-117 are pending in the application.

Claims 95-104 and 113-117 have been rejected.

Claims 95, 99 and 114 have been amended.

Rejection of Claims Under 35 U.S.C. §103

Claims 95-104 and 113-117 stand rejected under 35 U.S.C. §103(a) as being anticipated by U.S. Patent 5,867,709 issued to Klencke ("Klencke") in view of at least U.S. Patent 6,035,305 issued to Strevey et al. ("Strevey"). Applicants respectfully traverse these rejections.

In order for a claim to be rendered invalid under 35 U.S.C. §103, the subject matter of the claim as a whole would have to be obvious to a person of ordinary skill in the art at the time the invention was made. *See* 35 U.S.C. §103(a). This requires: (1) the reference(s) must teach or suggest all of the claim limitations; (2) there must be some teaching, suggestion or motivation to combine references either in the references themselves or in the knowledge of the art; and (3) there must be a reasonable expectation of success. *See* MPEP 2143; MPEP 2143.03; *In re Rouffet*, 149 F.3d 1350, 1355-56 (Fed. Cir. 1998).

All of the claims rejected in the Final Office Action are dependent upon rejected independent Claim 95, which the Office Action posits is anticipated by Klencke in view of Strevey. For reasons discussed below, Applicants respectfully submit that Klencke and Strevey do not disclose all of the limitations of independent claim 95, as amended.

- 5 -

Therefore, Applicants submit that claim 95 and all claims depending therefrom are in condition for allowance.

Applicants have amended claim 95 in order to provide clarity to certain previously presented claim terms, as well as to correct certain informalities in the claim. Applicants respectfully submit that the amendments give added meaning while not adding new matter. These amendments are provided to advance prosecution and are not intended as a concession that either Klencke or Strevey are indeed prior art to any claims now or previously presented. Applicants respectfully reserve the right to present the claims as previously presented in a later application.

First Logic Block Limitation:

The Final Office Action posits that Klencke's Abstract provides disclosure of "a first logic block to create a customizable product, the customizable product including a set of one or more attributes to define the customizable product." Final Office Action, p. 2. Applicants respectfully submit that the cited section of Klencke provides a product that is purportedly customizable because it is constructed using a hierarchy of parent-child object pairs in which the child ("shell") contains customer-added customizations to the functionality of the corresponding parent.

Applicants respectfully submit that the Abstract fails to provide a logic block <u>to create</u> such a product, instead the product is being merely described. The Abstract presents no mechanism for creating the described product including parent-child class pairs. Applicants therefore respectfully submit that the cited section of Klencke provides no disclosure of this limitation.

Second Logic Block Limitation:

The Final Office Action posits that Klencke's abstract provides disclosure of the "second logic block" limitation of Claim 95. Applicants have amended the "second logic block" limitation to clarify the nature of the previously claimed "configurator."

> A second logic block to assign the customizable product to a customizable product class, wherein
>> the customizable product class is a parent class of a hierarchy defining a configurator, and
>> the configurator is configured to reference the hierarchy to permit a user to configure a customizable product for purchase.

See Claim 95 (as amended). As an initial matter, Applicants respectfully submit that the cited section of Klencke does not provide for a configurator as originally claimed or as clarified. The Final Office Action provides no suggestion of a correspondence between the disclosure of the cited section and the claimed configurator.

Applicants also submit that Klencke does not <u>assign</u> the disclosed software product to a customizable product class, wherein that customizable product class is a parent class of a hierarchy. Instead, Applicants submit that Klencke discloses that the product itself comprises a hierarchy of object classes, and includes pairs of classes at each level of the hierarchy.

> [T]he system described herein provides a class hierarchy for a software product that is divided into pairs of classes. Each pair of classes contains a standard class and an empty or shell class. The standard class contains functions and data to perform the functionality of the software product and the shell class contains customizations added by a customer. The customer of the software product may add whatever customizations they desire into the shell classes, which will then augment or supersede the processing of the corresponding standard class."

-7-

Klencke, Abstract. Applicants submit that given that the software product is itself an object hierarchy, there is no assigning of that product to a customizable product class hierarchy. Applicants therefore respectfully submit that the cited section of Klencke fails to provide disclosure of the "second logic block" limitation, as amended, and specifically fails to provide assigning the customizable product to a customizable product class and the claimed "configurator."

Third Logic Block Limitation:

The Final Office Action posits that the "third logic block" limitation is disclosed by Klencke 4:55-5:2. The "third logic block" limitation, as amended, has the following form:

> A third logic block to add a component product class to the customizable product class, wherein
>> the component product class is a subclass of the customizable product class, and
>>
>> the component product class comprises one or more component products selectable for adding to the customizable product.

See Claim 95 (as amended). Applicants submit that amendments have been made to this claim limitation to provide clarity as to the nature of the previously claimed "component product class."

Applicants respectfully submit that the cited section of Klencke merely discusses class inheritance in a general fashion. See Klencke 4:56-59 ("The term 'inheritance' refers to a technique for implementing a derived type as a refinement or extension of another type by specifying the difference and reusing the common implementation.").

Klencke provides no connection of this general discussion to the Final Office Action's suggested analog to the customizable product class (e.g., the software product itself).

Indeed, it would make no sense to have a component product class as a subset of the Klencke software product since the software product itself is disclosed to be a hierarchy and no other hierarchy is suggested. Applicants respectfully submit that there is no suggestion within Klencke that the whole software product could have a component product class, as claimed.

In addition, Applicants have amended the claim to provide that "the component product class comprises one or more component products selectable for adding to the customizable product," to further emphasize the distinction between this limitation and the disclosure of Klencke. Applicants submit that Klencke provides no component products for addition to the disclosed software product. Instead, Klencke merely provides that a "customer of the software product may add whatever customizations they desire into the shell classes, which will then augment or supersede the processing of the corresponding standard class." Klencke, Abstract. Applicants submit that these augmentation/superceding customizations do not amount to component products selectable for adding to the customizable product, as claimed.

Fourth Logic Block Limitation:

The Final Office Action admits that Klencke does not provide disclosure of the "fourth logic block" limitation of Claim 95, a proposition with which the Applicants agree. Applicants submit that this limitation is not provided by Klencke, in part because (a) Klencke does not provide disclosure of component products (*see above*), and (b) none

Serial No.: 09/945,450

of the cited sections of Klencke provide an indication that limitations on component products are desirable in the shell classes – the only place where Klencke discloses user input. Applicants submit that any limitations of values in the various shells would presumably be demanded by the associated standard class. *See, e.g.,* Klencke 1:50-53.

The "fourth logic block" limitation, as amended, provides the following:

> A fourth logic block to add a customizable class rule to the customizable product class, the customizable class rule including expressions which define constraints on the one or more component products selectable for adding to the customizable product.

See Claim 95 (as amended). The Final Office Action suggests that Strevey provides disclosure of this claim limitation. Applicants respectfully submit that Strevey does not disclose the claimed "customizable class rule," as that term is defined within the claim. The cited section of Strevey does provide disclosure of constraints, but there is no disclosure that these constraints are provided by a rule, as claimed. Strevey, Abstract ("Constraints limit the selections that an operator can make, the appearance of the objects, and the configurations that can be produced from selected objects."). Further, while the cited section of Strevey does disclose rules, these rules are created from the information provided by the operator and are not disclosed to provide constraints during the information entering process. *See* Strevey, Abstract ("After producing a knowledge map, the information is retrieved from a database to produce a set of rules that is input to a rule-based program for validating a set of product option selections and configuring a final product defined by resulting modules."). Applicants therefore respectfully submit that Strevey fails to provide disclosure of the "fourth logic block" limitation.

Fifth Logic Block Limitation:

The Final Office Action suggests that Klencke 1:11-26 provides disclosure of the claim limitation: "a fifth logic block to map a customizable user interface ("UI") to the customizable product class, the customizable UI to provide access structure to the configurator." The cited section of Klencke merely provides a customer-modified user interface as an example of a software modification that a customer might desire. Klencke 1:13-15 ("For example, a customer may customize the appearance of the user interface of the software product to their liking."). Applicants submit that this cited section does not associate a user interface with a configurator access structure. As stated above, Klencke provides no disclosure of the claimed "configurator" and therefore there can be no disclosure of a customizable user interface that provides access structure to a configurator. Applicants also submit that there is no disclosure in the cited section of Klencke of mapping a customizable user interface to a customizable product class, as claimed. Instead, the cited section suggests that the customization of the user interface is to the customizable software product itself. Applicants therefore submit that Klencke fails to provide disclosure of this claim limitation.

Applicants therefore respectfully submit that the Final Office Action does not establish the presence of the above-discussed limitations in Klencke or Strevey, alone or in combination. The burden is on the Examiner to support a case of obviousness, including whether the prior art references teach or suggest all of the claim limitations. *See* MPEP 706.02(j).

In addition, Applicants also respectfully submit that the Office Action has not satisfied the burden of factually supporting the alleged motivation to combine the two

- 11 -

references. This duty may not be satisfied by engaging in impermissible hindsight; any conclusion of obviousness much be reached on the basis of facts gleaned from the references. The Office Action must therefore provide evidence to suggest the combination and "[b]road conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence.'" *See In re Dembiczak*, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). Applicants respectfully submit that the particular parts of the cited references relied upon by the Examiner and the pertinence of each reference has not been clearly explained, especially with regard to the motivation to combine references on page 3 of the Final Office Action. Further, the Office Action does not establish that such a combination of the teachings of these references would meet with success, as required.

As discussed above, Klencke purports to disclose a customizable software product that includes a class hierarchy which is divided into pairs of classes: a "standard class" disclosed to contain "functions and data to perform the functionality of the software product," and a "shell class" disclosed to contain "customizations added by a customer." Klencke, Abstract. Klencke, as discussed above, does not provide disclosure of component products that can be added to the software product. Instead, the customer adds "whatever customizations they desire into the shell classes, which will then augment or supersede the processing of the corresponding standard class." Klencke, Abstract.

The Final Office Action seeks to combine Strevey with Klencke in order to provide disclosure of the claimed customizable class rules. But the claimed customizable class rules relate to constraints on the component products that can be added to the customizable product. Without disclosure of component products in Klencke, there is no

reason to include any rules related to component products in Klencke. Thus, a person of ordinary skill would not be motivated to provide such rules in Klencke.

Further, as discussed above, Strevey does not provide disclosure of the claimed customizable class rules. So even were a person of ordinary skill motivated to include the claimed class rules within Klencke (a proposition with which Applicants do not agree), such a person would not use Strevey for such inclusion.
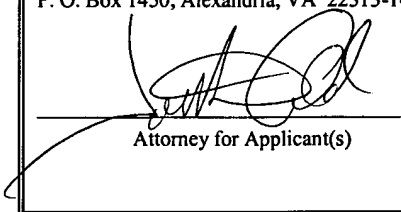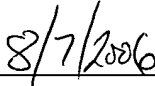
For similar reasons, Applicants respectfully submit that the combination of Klencke with Strevey would not successfully provide the invention as claimed. First, there is no indication of how one would include customizable class rules in the structure of Klencke to provide the claimed constraints. Also, even were one to find a way to combine Strevey with Klencke, Strevey's constraints are not due to the implementation of rules and therefore one could not expect a successful implementation of the invention as claimed.

For these reasons, Applicants respectfully submit that the Final Office Action fails to present a *prima facie* case of obviousness of independent claim 95, and all claims depending therefrom, and that they are in condition for allowance. Applicants therefore respectfully request the Examiner's reconsideration and withdrawal of the final rejections as to these claims, and an indication of the allowability of same.

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance without any further examination and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5090.

<table>
<tr><td>
I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop AF, COMMISSIONER FOR PATENTS, P. O. Box 1450, Alexandria, VA 22313-1450, on August 7, 2006.

_____ 8/7/2006
Attorney for Applicant(s)   Date of Signature
</td></tr>
</table>

Respectfully submitted,

Jonathan N. Geld
Attorney for Applicants
Reg. No. 44,702
(512) 439-5090 [Phone]
(512) 439-5099 [Fax]

Serial No.: 09/945,450